

ACT 007/002 #2

BLACKHAWK COAL COMPANY

P.O. Box 700
Lancaster, Ohio 43130

Ms. Dianne Nielson
Director
Utah Division of Oil, Gas and Mining
355 East North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180

Attn: Daron R. Haddock

Re: Response to letter from Daron Haddock to Jody Belviso dated May 9, 1990

Dear Ms. Nielson:

Blackhawk received the subject letter May 14, 1990. Our understanding of your letter is that no response is required but that failure to respond will result in permit issuance with the stipulations proposed in the letter. Blackhawk wishes to minimize the number of stipulations in the permit approval. Following is Blackhawk's response to outstanding issues. These responses refer to revised plan pages which are attached herewith and may be inserted into your copies of the Final Closure and Reclamation Plan.

MEMORANDUM FROM HAROLD SANDBECK TO DARON HADDOCK - MARCH 21, 1990

UMC 771.25 Permit Fees

Attached herewith is a check for \$5.00. Please provide Blackhawk with a receipt indicating payment of the permit fees.

UMC 771.27 Verification of Application

Attached herewith is a verified oath provided by a responsible official of Blackhawk. Please insert this verification behind the cover letter in your copies of the Final Closure and Reclamation Plan.

MEMORANDUM FROM MIKE DEWEESE TO DARON HADDOCK - MARCH 19, 1990

UMC 817.49 Hydrologic Balance: Permanent and Temporary Impoundments

Attached herewith is a certification letter by a registered professional engineer attesting to the design plans for sediment traps 018 and 017. Please insert this letter into Exhibit 5, Drainage and Sediment Control Plan at page 5-27. Also enclosed is a revised Table of Contents for Exhibit 5. Please insert this in your copies of the Final Closure and Reclamation Plan at the appropriate location.

UMC 817.57 Hydrologic Balance: Stream Buffer Zones

Attached herewith is a revised page 3-15 from the Final Closure and Reclamation Plan. This page contains the requested commitment. Also attached is a revised Table of Contents for the Final Closure and Reclamation Plan. Please insert these two items in the appropriate locations in your documents.

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UMC 817.163 Roads: Class II: Drainage

The required commitment to insuring final road drainage can be found on page 3-9 of the Final Closure and Reclamation Plan under the paragraph entitled "Berms". That paragraph commits Blackhawk as follows; ".... a swale will be installed across the road at the top of Sediment Trap 17 so that all road drainage is directed to the trap".

Please review the appropriate sections of the Final Closure and Reclamation Plan.

MEMORANDUM FROM RANDY HARDIN TO DARON HADDOCK - MARCH 29, 1990

UMC 800(1)

Blackhawk will submit the required bond revision on a State of Utah bond form within 30 days of permit approval as required in the proposed stipulation.

UMC 817.89 - (1)

The requested commitment can be seen on revised page 3-15 included herewith.

UMC 817.99 - (1)

The requested commitment is found as the third paragraph on revised page 3-13 enclosed herewith.

MEMORANDUM FROM LYNN KUNZLER TO DARON HADDOCK - APRIL 4, 1990

UMC 817.111-.117-(1)

Blackhawk does not understand the need for this proposed stipulation and requests that it not be included in our permit approval document. It appears to confuse revegetation success standards with bond release criteria. For industrial sites where no revegetation is required no bond need be retained.

*Not a stipulation
access road
LX*
Blackhawk has reviewed the memorandum from Barbara Roberts, Esq. dated November 7, 1989 regarding reclamation liability. While we do not agree with all the points in this memo we are in agreement that the two year time limit for developing a post mining industrial use will apply to the site. Blackhawk has begun implementation of the post mining industrial land use through our Lease with EIS dated September 1, 1989. Currently use of the site for storage is restricted by UDOGM's use of the access road for AML work. As soon as the AML project is completed in late 1990, industrial use will begin. Industrial use before that date is not possible due to the lack of security for storage of equipment and supplies while the site road is open for AML work.

We are also in agreement with Ms. Roberts statement: "if no area needs to be revegetated, no bond need be retained." UDOGM has unofficially approved the industrial post mining land use for the entire permit area. Actions by UDOGM indicate that revegetation is not required to implement this land use. Thus, bond release will require only the reconstruction of the drainage and sediment control system and implementation of the industrial land use.

UMC 817.111-.117-(2)

*This stip
with O&W
and O&W
LX*
Blackhawk recognizes that UDOGM has regulatory authority and responsibility for reclamation of coal mining sites in the state of Utah. Under this authority UDOGM can require revisions to the Final Closure and Reclamation Plan in the event that Blackhawk fails to properly implement the plan.

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The proposed stipulation is designed to cover a hypothetical situation which Blackhawk does not consider to be realistic. Given the hypothetical nature of the situation envisioned in the proposed stipulation and UDOGM's statutory authority, Blackhawk believes that no purpose would be served by including this stipulation in the plan approval. We request that you review this stipulation carefully prior to including it in our Plan approval.

not acceptable
UMC 817.133-(1)

Blackhawk has included a commitment to notify UDOGM of any changes in our lease agreement on the property within 30 days of the effective date of such changes. This commitment is found on revised page 4-5 attached herewith.

not acceptable
UMC 817.133-(2)

This stipulation addresses two postulated events; failure to implement the land use or discontinuance of the proposed land use. Blackhawk requests removal of this proposed stipulation for the following reasons: 1) Blackhawk has already implemented the land use through our contract with EIS, 2) The site will be suitable for industrial use for perpetuity. UDOGM's concern regarding discontinuance of the industrial post mining land use is tied to the bond liability period question. Blackhawk understands that the bond liability period leases upon implementation of the industrial post mining land use since there is no revegetation proposed for the site. Please see responses to UMC 817.111-.117(1) above.

not acceptable
UMC 817.133-(3)

Blackhawk requests that this proposed stipulation not be included in the final approval of our permit application. Blackhawk has gone to great lengths to clarify the site uses permitted under the existing zoning. To date we have received two documents from the Carbon County Planning and Zoning Commission outlining approved activities on the site under the Carbon County Planning and Zoning regulations. These two documents are: 1) the Resolution of the Carbon County Planning and Zoning Commission dated November 14, 1989 and, 2) the letter from Richard Tatton, Chairman of the Carbon County Planning and Zoning Commission dated January 19, 1990. Both of these documents can be found in Exhibit 9 of the Willow Creek Final Closure and Reclamation Plan.

These official executed documents from the Carbon County Planning and Zoning Commission approve light industrial use of the site as described in the Proposed Usage Plan Willow Creek Storage Site. The proposed usage plan can also be seen in Exhibit 9.

These documents allow us considerable latitude in designating the light industrial uses proposed for the Willow Creek site. Blackhawk will comply with the Resolution requirement that "any substantial deviation in principal from site use as outlined" will require further review by the Commission. Use of the area as a storage yard is merely one of the industrial uses to which the site can be put and which has already been approved by the Carbon County Planning and Zoning Commission. Blackhawk believes that proposed stipulation needlessly restricts our rights under the findings of the Carbon County Planning and Zoning Commission, the agency with specific land use authority over the Willow Creek site.

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SUMMARY

The attached revised pages of the Final Closure and Reclamation Plan are for your use in updating your copies of the Plan. Enclosed are eight (8) complete sets of updated pages. It is Blackhawk's understanding that by inserting these pages in the Final Closure and Reclamation Plan a number of the proposed stipulations can be removed from the permit approval document.

We ask that you review our letter carefully prior to including the disputed stipulations in our approved Final Closure and Reclamation Plan. Stipulations allowing time for full discussion and resolution of the underlying issues would be more productive.

I look forward to hearing from you and to resolving these last issues and receiving permit approval.

Respectively Submitted,

Conrad Parrish
for Jody Belviso

cc: Bill Bosworth
Lowell Braxton
Conrad Parrish